

Internal Revenue Service, Treasury

§ 1.182-1

Example 1. X, a corporation using a calendar taxable year, is a producer of films. X is the owner (within the meaning of § 1.181-1T(a)(2)) of film ABC. X incurs production costs in year 1, but does not commence principal photography for film ABC until year 2. In year 1, X reasonably expects, based on all of the facts and circumstances, that film ABC will be set for production and will be a qualified film or television production, and that at no time will the production cost of film ABC exceed the applicable production cost limit of § 1.181-1T(b). Provided that X satisfies all other requirements of §§ 1.181-1T through 1.181-4T and § 1.181-6T, X may deduct in year 1 the production costs for film ABC that X incurred in year 1.

Example 2. The facts are the same as in *Example 1*. In year 2, X begins, but does not complete, principal photography for film ABC. Most of the scenes that X films in year 2 are shot outside the United States and, as of December 31, year 2, less than 75 percent of the total compensation paid with respect to film ABC is qualified compensation. Nevertheless, X still reasonably expects, based on all of the facts and circumstances, that film ABC will be a qualified film or television production, and that at no time will the production cost of film ABC exceed the applicable production cost limit of § 1.181-1T(b). Provided that X satisfies all other requirements of §§ 1.181-1T through 1.181-4T and § 1.181-6T, X may deduct in year 2 the production costs for film ABC that X incurred in year 2.

Example 3. The facts are the same as in *Example 2*. In year 3, X continues, but does not complete, production of film ABC. Due to changes in the expected production cost of film ABC, X no longer expects film ABC to qualify under section 181. X files a statement with its return for year 3 identifying the film and stating that X revokes its election under section 181. X includes in income in year 3 the deductions claimed in year 1 and in year 2 as provided for in § 1.181-4T. X has successfully revoked its election pursuant to § 1.181-2T(d).

Example 4. The facts are the same as in *Example 2*. In year 3, X completes production of film ABC at a cost of \$14.5 million and places it into service. ABC is an unexpected success in year 4, causing participation payments to drive the total production cost of film ABC above \$15 million in year 4. X includes in income in year 4 as recapture under § 1.181-4T(a) the difference between the deductions claimed in year 1, year 2, and year 3, and the deductions that it would have claimed under the income forecast method described in section 167(g) of the Internal Revenue Code, a method that was allowable for the film in year 3 (the year the film was placed in service). Because X calculated the recapture amount by comparing actual deductions to deductions under the income forecast meth-

od, X must use this method to calculate deductions for film ABC for year 4 and in subsequent taxable years.

[T.D. 9312, 72 FR 6159, Feb. 9, 2007]

§ 1.181-6T Effective date (temporary).

(a) *In general.* (1) Section 181 applies to productions commencing after October 22, 2004, and shall not apply to productions commencing after December 31, 2008. Except as provided in paragraphs (b) and (c) of this section, §§ 1.181-1T through 1.181-5T apply to productions, the first day of principal photography for which occurs on or after February 9, 2007, and before January 1, 2009. In the case of an animated production, this paragraph (a) should be applied by substituting “in-between animation” in place of “principal photography”. Productions involving both animation and live-action photography may use either standard.

(2) The applicability of §§ 1.181-1T through 1.181-5T expires on February 8, 2010.

(b) *Application of regulation project REG-115403-05 to pre-effective date productions.* A taxpayer may apply §§ 1.181-1T through 1.181-5T to productions, the first day of principal photography (or “in-between” animation) for which occurs after October 22, 2004, and before February 9, 2007, provided that the taxpayer applies all provisions in §§ 1.181-1T through 1.181-5T to the productions.

(c) *Special rules for returns filed for prior taxable years.* If before March 12, 2007, an owner of a film or television production began principal photography (or “in-between” animation) for the production after October 22, 2004, and filed its original Federal income tax return for the year such costs were first paid or incurred without making an election under section 181 for the costs of the production, and if the taxpayer wants to make an election under section 181 for such taxable year, see § 1.181-2T(e) for the time and manner of making the election.

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§ 1.182-1 Expenditures by farmers for clearing land; in general.

Under section 182, a taxpayer engaged in the business of farming may elect, in the manner provided in § 1.182-6, to deduct certain expenditures paid